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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,132	12/31/2003	William E. Lasko	LPI-217US	9779
23122	7590	02/10/2006	EXAMINER	
RATNERPRESTIA			WHITE, DWAYNE J	
P O BOX 980			ART UNIT	
VALLEY FORGE, PA 19482-0980			PAPER NUMBER	
			3745	

DATE MAILED: 02/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 10/750,132	Applicant(s) LASKO, WILLIAM E.	
	Examiner Dwayne J. White	Art Unit 3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 August 2005.  
 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16, 18-39, 44 and 46-49 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-13, 19, 20, 22-27, 29-33, 37-39, 43, 44 and 46-49 is/are rejected.  
 7) ☒ Claim(s) 14-16, 18, 21, 28 and 34-36 is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☒ The drawing(s) filed on 31 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. <u>2/3/06</u> . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____   |

## **DETAILED ACTION**

### ***Examiner's Note***

The Examiner has hereby vacated the Office Action dated 03 November 2005 due to unintentional omission of claims 21-24 from the detailed action. The Examiner regrets any inconvenience this may have caused Applicant.

### ***Response to Amendment***

Applicant's amendment dated 15 August 2005 has been fully considered. Upon further consideration of the claims, the Examiner withdraws indication of allowability of claims 11-13 and 17 (now canceled). The Examiner regrets any inconvenience this may cause. Claims 1-16, 18-39, 44 and 46-49 are pending.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6, 8, 9, 11-13, 19, 20, 22-27, 29-32, 37, 39, and 43, 44 and 46-48 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones-Lawlor et al. (6,321,034). Jones-Lawlor et al. disclose a multi-directional air circulation device for use in a living space comprising: a first housing 4 having a first wall portion defining a first interior space, a first air inlet and outlet, and

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a first air directing grill 9 adjacent to the first air outlet; a second housing 2 rotatable with respect to the first housing about a common axis having a second wall portion defining a second interior space, a second air inlet and outlet, a second air grill adjacent to the second air outlet; and at least one air generator 7 used to generate at least one air stream, to be discharged from said first and second air outlets creating at least two exhaust streams being independently directed from one another. Jones-Lawlor et al. further discloses additional housings (Column 5, lines 4-7) aligned substantially end to end; a base 30/31 coupled to the first housing, the housing capable of rotating or oscillating with respect to the base; an oscillator 20; and a controller that controls oscillation (column 5, lines 21-44) disposed on one of said housings. The air-directing grill has a plurality of grill elements having slats to direct the exhaust air streams and have a flow through area greater than 60% of an area of the air exhaust streams. It should be noted that since the device of Jones-Lawlor et al. can oscillate, it is the position of the Examiner that the oscillating housing can rotate up to 360 degrees as claimed by Applicant. The device further includes a mount for rotatably coupling the device to a vertical mounting surface 30 (column 5, lines 8-13). The device further includes a plurality of motors 10 and impellers 7 at least partially with their respective housings (column 3, lines 33-39); the housings have a polygonal shape and is portable and for use on a substantially horizontal mounting surface. In regards to claims 23 and 24, it is the position of the Examiner that the wherein statements in the respective claims does not provide structural limitations to Applicant's claimed invention and as such is viewed as functional language. Since the device of Jones-Lawlor et al. appears to have the same structure as the claimed invention, it is the position of the Examiner that the prior art device would be capable of functioning as claimed by Applicant.

Claims 1-13, 19, 20, 22-25, 26, 31-33, 37-39, 44 and 46-49 are rejected under 35 U.S.C. 102(e) as being anticipated by Birdsell et al. (6,830,433). Birdsell et al. disclose a multi-directional air circulation device for use in a living space comprising: a first housing 20 having a first wall portion defining a first interior space, a first air inlet and outlet, and a first air directing grill adjacent to the first air outlet; a second housing 40 rotatable with respect to the first housing about a common axis having a second wall portion defining a second interior space, a second air inlet and outlet, a second air grill adjacent to the second air outlet; and at least one air generator used to generate at least one air stream, to be discharged from said first and second air outlets 24 creating at least two exhaust streams being independently directed from one another. Birdsell et al. further discloses addition housings (Column 4, lines 12-19) aligned substantially end to end; a base 40 coupled to the first housing, the housing capable of rotating or oscillating with respect to the base; a oscillator 20; and a controller that controls the device (column 7, line 49 to column 8, line 9) disposed on one of said housings or the base. The air-directing grill has a plurality of grill elements having slats 26 to direct the exhaust air streams. The device of Birdsell et al. can also oscillate up to 360 degrees (Column 6, lines 45-46). The device further includes a plurality of motors and impellers at least partially with their respective housings (column 4, lines 12-19); the housings have a circular shape and is portable and for use on a substantially horizontal mounting surface. It is the position of the Examiner that the height to width or depth ratio of the device of Birdsell et al. is greater than 2:1. In regards to claims 23 and 24, it is the position of the Examiner that the wherein statements in the respective claims does not provided structural limitations to Applicant's claimed invention and as such is view as functional language. Since

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the device of Birdsell et al. appears to have the same structure as the claimed invention, it is the position of the Examiner that the prior art device would be capable of functioning as claimed by Applicant.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones-Lawlor et al. Jones-Lawlor et al. discloses all of the claimed subject matter as stated above except for the predetermined oscillation angle of the oscillator.

Since applicant has not disclosed that having the oscillator having a oscillation angle of at least 30 degrees solves any stated problem or is for any particular purpose and it appears that the oscillator device of Jones-Lawlor et al. would perform equally well with an angle as claimed by applicant, it would have been an obvious matter of design choice to modify the oscillation device Jones-Lawlor et al. by utilizing the angle as claimed for the purpose of oscillating the fan about a range on its axis.

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## CONCLUSION

### *Allowable Subject Matter*

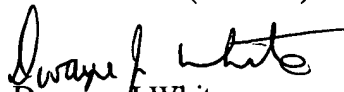
Claims 14-16, 18, 21, 28 and 34-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### *Contact Information*


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dwayne J. White whose telephone number is (571) 272-4825. The examiner can normally be reached on 7:00 am to 4 pm T-F and alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Dwayne J White  
Patent Examiner  
Art Unit 3745

DJW

  
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2/4/06